

Office of Chief Counsel  
Internal Revenue Service

**memorandum**

CC: SER: [REDACTED]: TL-N-2848-99  
[REDACTED]

date: AUG 16 1999

to: Chief, Examination Division, [REDACTED] District  
Attn: [REDACTED], Revenue Agent

from: District Counsel, [REDACTED] District

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subject: [REDACTED] and [REDACTED] [REDACTED] Form 1040X

This is in response to your request for our advice concerning the deductibility of payments made by [REDACTED] ("the taxpayer") in connection with [REDACTED]

[REDACTED]. The taxpayers claimed a deduction for the payments on an amended [REDACTED] return.

DISCLOSURE STATEMENT

This advice constitutes return information subject to I.R.C. § 6103. This advice contains confidential information subject to attorney-client and deliberative process privileges and if prepared in contemplation of litigation, subject to the attorney work product privilege. Accordingly, the Examination or Appeals recipient of this document may provide it only to those persons whose official tax administration duties with respect to this case require such disclosure. In no event may this document be provided to Examination, Appeals, or other persons beyond those specifically indicated in this statement. This advice may not be disclosed to taxpayers or their representatives.

This advice is not binding on Examination or Appeals and is not a final case determination. Such advice is advisory and does not resolve Service position on an issue or provide the basis for closing a case. The determination of the Service in the case is to be made through the exercise of the independent judgment of the office with jurisdiction over the case.

ISSUE

Whether the taxpayer is entitled to deduct amounts paid in connection with his [REDACTED].

### CONCLUSION

The taxpayer is not entitled to deduct amounts paid in connection with his [REDACTED]. We recommend that a notice of claim disallowance be sent to the taxpayer.

### FACTS

On an amended [REDACTED] return, the taxpayer claimed \$ [REDACTED] as an employee business expense for amounts paid in connection with his [REDACTED]. The claim states that the deduction is for "an expense incurred by taxpayer in his employment as [REDACTED]." The taxpayer also claimed an employee business expense of \$ [REDACTED] on his [REDACTED] return as "[REDACTED]."

### ANALYSIS

Based on our review of the claim and the law governing the deductibility of employee business expenses, we recommend that you issue a notice of claim disallowance. The taxpayer's claim is based on his assertion that the expense arose from, and was paid in connection with, his trade or business of being a [REDACTED]. We disagree.

The duties of [REDACTED]. Expenditures made by a [REDACTED] in carrying out these duties generally would be deductible as business expenses. [REDACTED].

However, "expenses incurred by [REDACTED] are not deductible" because they are not sufficiently connected with the trade or business of [REDACTED]. [REDACTED].

We believe that the activities giving rise to the expense are unrelated to the taxpayer's [REDACTED] duties and instead appear to relate to "[REDACTED]." Therefore, we recommend that the taxpayer's claim for refund be denied.

Section 6532 of the Code permits a taxpayer to file suit for refund either six months after a claim is filed if the Service does not act on the claim or within two years from the date of the notice of disallowance. Because the taxpayer filed a claim on or about [REDACTED], the taxpayer may file a refund suit now or within two years from the date a notice of claim disallowance is issued.

The \$ [REDACTED] deduction claimed by the taxpayer on his [REDACTED] return involves the same facts and legal principles as the expense giving rise to the [REDACTED] refund claim. Thus, we likewise believe that the [REDACTED] deduction is improper.

Please contact [REDACTED] at [REDACTED] if you have any questions.

Sincerely,

[REDACTED]  
Acting District Counsel

By: [REDACTED]

Senior Attorney